

FILED

JAN - 3 2017

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY AD DEPUTY

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States  
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WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

A17CV002 LY

Name JOSE TRINIDAD MEDEROS-LIGARTE, Docket  
(under or  
which Case No. 1:15-CR-00182-LY  
you No.:  
were  
convict  
ed):

Place FEDERAL TRANSFER CENTER Prisoner  
of P.O. Box 898801 No.: 53531-280  
Confine  
ment: OKLAHOMA CITY, OK 73189-8801

UNITED  
STATES  
OF  
AMERICA

Movant  
(include  
name under JOSE TRINIDAD MEDEROS-LIGARTE,  
which  
convicted)

v.

### MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

(b) Criminal docket or case number (if you know): D1DC142D7482 / D1DC142D7483

2. (a) Date of the judgment of conviction (if you know): JUNE 20, 2016

(b) Date of sentencing: JUNE 20, 2016

3. Length of sentence: 14 MONTHS OF IMPRISONMENT TO RUN CONSECUTIVE WITH 60 MONTHS OF IMPRISONMENT

4. Nature of crime (all counts): \_\_\_\_\_

18 U.S.C. § 922(g) and 21 U.S.C. § 841(a)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. (a) What was your plea? (Check one)

- (1) Not guilty                      (2) Guilty ☒                      (3) Nolo contendere (no contest)  
(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

PLEA GUILTY TO 18 U.S.C § 922(g) AND 21 U.S.C § 841(a)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. If you went to trial, what kind of trial did you have? (Check one) Jury Judge only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No

8. Did you appeal from the judgment of conviction? Yes No

I REQUESTED TO APPEAL THROUGH COUNSEL OF RECORD BUT NOTHING WAS FILE.

9. If you did appeal, answer the following:

(a) Name of court: NA  
(b) Docket or case number (if you know): NA  
(c) Result: NA  
(d) Date of result (if you know): NA  
(e) Citation to the case (if you know): NA  
(f) Grounds raised: NA

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes No  
If "Yes," answer the following:

(1) Docket or case number (if you know): NA

(2) Result: NA  
\_\_\_\_\_

(3) Date of result (if you know): NA

(4) Citation to the case (if you know): NA

(5) Grounds raised: NA  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?  
Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Date of filing (if you know): N/A

(4) Nature of the proceeding: N/A

(5) Grounds raised: N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?  
Yes No

(7) Result: N/A

(8) Date of result (if you know): N/A  
(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Date of filing (if you know): N/A

(4) Nature of the proceeding: N/A

(5) Grounds raised: N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

N/A

- (6) Did you receive a hearing where evidence was given on your motion, petition, or application?  
Yes No

- (7) Result: N/A

- (8) Date of result (if you know): N/A  
(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First Y No  
petition: e No  
s

(2) Second Y No  
petition: e No  
s

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**GROUND ONE:** INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

\_\_\_\_\_ COUNSEL OF RECORD WAS INEFFECTIVE BY FAILING  
\_\_\_\_\_ TO FILE MY NOTICE OF APPEAL AND BY FAILING TO OBJECT  
\_\_\_\_\_ TO THE CONSECUTIVE TERMS OF IMPRISONMENT DURING  
\_\_\_\_\_ MY JUNE 20, 2016 SENTENCING PROCEEDINGS. SEE  
\_\_\_\_\_ ATTACHED MEMORANDUM IN SUPPORT.  
\_\_\_\_\_  
\_\_\_\_\_

(b) Direct Appeal of Ground One:

NO.

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

\_\_\_\_\_ BECAUSE COUNSEL FAIL TO FILE MY NOTICE OF APPEAL  
\_\_\_\_\_ PER MY NUMEROUS REQUESTS.  
\_\_\_\_\_

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed:  
\_\_\_\_\_



N/A  
Docket or case number (if you know): \_\_\_\_\_  
Date of the court's decision: \_\_\_\_\_  
Result (attach a copy of the court's opinion or order, if available):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (3) Did you receive a hearing on your motion, petition, or application?

Yes No

- (4) Did you appeal from the denial of your motion, petition, or application?

Yes No

- (5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

- (6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal

N/A

or raise this issue: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**GROUND TWO:** DISTRICT COURT ERROR

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

\_\_\_\_\_  
DISTRICT COURT ERRED DURING MY SENTENCING PROCEED  
BY FAILING TO GROUP BOTH COUNTS TO-GETHER AND SENTENCED ME TO  
A CONSECUTIVE TERM OF IMPRISONMENT OF AN 84 MONTH GREATER  
SENTENCE OF IMPRISONMENT. PLEASE SEE MEMORANDUM IN SUPPORT  
ATTACHED.  
\_\_\_\_\_  
\_\_\_\_\_

(b) **Direct Appeal of Ground Two:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?  
Yes No

- (2) If you did not raise this issue in your direct appeal, explain why:  
COUNSEL FAILED TO FILE MY NOTICE OF APPEAL PER MY NUMEROUS REQUESTS.  
\_\_\_\_\_  
\_\_\_\_\_

(c) **Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?  
Yes No

- (2) If your answer to Question (c)(1) is "Yes," state: N/A

Type of motion or petition: N/A  
Name and location of the court where the motion or petition was filed:

\_\_\_\_\_  
Docket or case number (if you know): \_\_\_\_\_  
Date of the court's decision: \_\_\_\_\_  
Result (attach a copy of the court's opinion or order, if available):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?  
Yes No

(4) Did you appeal from the denial of your motion, petition, or application?  
Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?  
Yes No

(6) If your answer to Question (c)(4) is "Yes," state:  
Name and location of the court where the appeal was filed: N/A  
\_\_\_\_\_  
Docket or case number (if you know): \_\_\_\_\_  
Date of the court's decision: \_\_\_\_\_  
Result (attach a copy of the court's opinion or order, if available):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:       N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**GROUND THREE:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(b) Direct Appeal of Ground Three:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?  
Yes No

- (2) If you did not raise this issue in your direct appeal, explain why:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(c) Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?  
Yes No

- (2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed:

\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- (3) Did you receive a hearing on your motion, petition, or application?  
Yes No

- (4) Did you appeal from the denial of your motion, petition, or application?  
Yes No

- (5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?  
Yes No

- (6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**GROUND FOUR:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(b) Direct Appeal of Ground Four:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?  
Yes No

- (2) If you did not raise this issue in your direct appeal, explain why:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(c) Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?  
Yes No

- (2) If your answer to Question (c)(1) is "Yes," state:  
Type of motion or petition: \_\_\_\_\_  
Name and location of the court where the motion or petition was filed:  
\_\_\_\_\_  
Docket or case number (if you know): \_\_\_\_\_  
Date of the court's decision: \_\_\_\_\_  
Result (attach a copy of the court's opinion or order, if available):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (3) Did you receive a hearing on your motion, petition, or application?  
Yes No

- (4) Did you appeal from the denial of your motion, petition, or application?  
Yes No

- (5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?  
Yes No

(6) If your answer to Question (c)(4) is "Yes," state:  
Name and location of the court where the appeal was filed: \_\_\_\_\_

\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal  
or raise this issue: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Is there any ground in this motion that you have not previously presented in some federal court? If  
so, which ground or grounds have not been presented, and state your reasons for not presenting  
them:       ~ / ~      

\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_



- \_\_\_\_\_
14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. N/A

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: \_\_\_\_\_

(b) At arraignment and plea: RICHARD T. JONES

(c) At trial: N/A

(d) At sentencing: ARMANDO B. MARTINEZ

(e) On appeal: NA

(f) In any post-conviction proceeding: N/A

(g) On appeal from any ruling against you in a post-conviction proceeding:

090

N/A

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\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

Therefore, movant asks that the Court grant the following relief: THIS COURT WOULD VACATE IT'S CONSECUTIVE SENTENCE, RESENTENCE HIM TO CONCURRENTLY FOR SENTENCE OF THE 120 MONTHS WITH THE 60 MONTHS TO-GETHER, GROUP BOTH COUNTS AND FIND THE HE WAS/IS ELIGIBLE FOR THE 120 MONTH SENTENCE.

or any other relief to which movant may be entitled.

December 26, 2016

J. Meden07

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JOSE TRINIDAD MEDEROS-UGARTE,  
PETITIONER,

**A17CV002 LY**  
CIVIL NO.  
CRIMINAL NO. 15-LR-00182-LY

v.

UNITED STATES OF AMERICA,  
RESPONDENT.

PETITIONER'S MEMORANDUM IN SUPPORT OF MOTION  
UNDER 28 U.S.C. § 2255

TO THE HONORABLE LEE YEAKEL.

COMES NOW, JOSE TRINIDAD MEDEROS-UGARTE, herein through pro se representation, moves this Court for a Motion to vacate, correct, or set aside his sentence pursuant to 28 U.S.C. § 2255, and for good cause would show this Court as follows:

I.

JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. § 2255.

II.

PROCEDURAL BACKGROUND

On or about December 29, 2014, Petitioner was arrested and charged with for violating 18 U.S.C. §§ 922 (g) and 924(a)(2) and 21 U.S.C. § 841 (a), and on December 21, 2015 he entered into a plea of guilty for violating the above mention offenses.

In June 20, 2016 this Court sentenced Petitioner to two consecutive terms of imprisonment of 144 months for the controlled substance and 60 months for the possession of a firearm.

### III.

#### GROUND ONE INEFFECTIVE ASSISTANCE OF COUNSEL APPEAL

Petitioner asserts that counsel of record Mr. Armando G. Martinez render ineffective assistance, by failing to file notice of appeal upon his numerous requests, that said ineffectiveness prejudiced his defense, because Petitioner adequately expressed his desire to appeal and that, had counsel filed his notice of appeal there is a reasonable probability that an appeal would have been prosecuted and appellant counsel would have had been appointed, and as a result of ineffectiveness Petitioner lost his appellant right to appeal. Federal Rules of Criminal Procedure 32 (g)(B) and (c).

In *Ramirez v. United States*, Civil No. 3:13-CV-2838-B-BN. (D.C.N.Tex 2015), the district court held, that "Movant's" counsel rendered ineffective assistance of counsel because of counsel's failure to file notice of appeal upon "Movant's" request.

Petitioner asserts he suffered that same ineffective assistance of counsel discussed in *Ramirez*, that counsel knew of Petitioner's desire to appeal, pursuant to Rule 32 (a)(B) and (c), but counsel did nothing, but for counsel's ineffectiveness Petitioner was prejudiced, and as a result lost his right to appeal in violation of the Fifth and Sixth Amendments of the United States Constitution.

#### SENTENCING

Petitioner asserts that counsel of record Mr. Armando G. Martinez render ineffective assistance of counsel during his June 20, 2016 sentencing proceedings because counsel failed to object to the two consecutive terms of 119 months and 60 months of imprisonment, that said ineffective assistance prejudiced his sentence, because had counsel move the court for a grouping on both counts, there would have had been a reasonable probability that the court would grouped both counts, to run concurrently, because the continuous in nature and the offense and the offense guideline is written to cover such behavior, pursuant to U.S.S.G. § 3D1.2, that as a result of said ineffectiveness Petitioner was sentenced to a consecutive term of imprisonments of 119 months and 60 months, total of 209 months of imprisonment.

The United States Sentencing Guidelines Section 3D1.2, states in relevant part:

(d) "[T]he offense level is determined largely on the basis of the basis of the total amount of harm or loss, the quantity of a substance involved."

Offenses covered by the following guidelines are to be grouped under this subsection:

U.S.S.G. § 2D1.1 (c)(2) Drug Quantity Table,

"[L]evel 36, if at least 15 KG but less than 45 KG of Methamphetamine (actual)";

U.S.S.G. § 2K2.1 (a)(4)(A):

"[T]he defendant committed any part of the instant offense subsequent to sustaining one felony conviction of either a crime of violence or a controlled substance offense."

In *United States v. Pacheco*, Criminal No. 3:13-CR-157-P (D1), (D.C. N.Tex. 2013), the district court found that Defendant's sentencing range of 97 to 121 months as to both counts was determined based on a criminal history category of II and a total offense level of 29. See Dkt. No. 32, at 26-44; Dkt. No. 11, at 1. The base offense level of 22, however, was determined using the guidelines applicable to Defendant's felon-in-possession conviction, U.S.S.G. § 2K2.1, because both counts were "groupable" since "the offense level is determined largely on the measure of aggregate harm," and because Section 2K2.1 yields a higher offense level than Section 2D1.1. See Dkt. No. 32.

Petitioner asserts that counsel knew or should have known that at all times prior and during his June 20, 2016 sentencing proceeding, that he was eligible for "grouping" sentencing guidelines application under U.S.S.G. § 3D1.2, because "the offense level was determined largely on the basis of the measure of aggregate harm". Section, but for counsel's ineffectiveness he received a higher sentence of 84 month of imprisonment.

IV  
GROUND TWO  
DISTRICT COURT ERROR

Petitioner asserts that during his June 20, 2016 sentencing proceedings the district court plainly erred because it fail to group the one count of Felon in possession of a firearm, in violation of 18 U.S.C. § 922(g), and one count of possession with intent to distribute a controlled substance, in violation of 21 U.S.C. § 841(a), that as a result of said erred Petitioner was sentenced to 84 months greater than the concurrent sentence pursuant to U.S.S.G. § 3D1.2, because both counts were "groupable", *United States v. Pacheco*, Criminal No. 3:13-CR-157-P(01) (D.C.N. Tex 2013).

To establish plain error, a defendant must show: (1) error (2) that is plain and (3) affects substantial rights. *United States v. Davis*, No. 15-13064 (5<sup>TH</sup> Cir. 2015). As to the first element, the district court's consecutive terms of 144 months and 60 month of imprisonment was error because both counts involved substantially the same harm with the meaning of U.S.S.G. § 3D1.2, to be grouped together, as to the second element, the error is plain because Petitioner received a sentence of 84 months greater than he would have had received if the counts would have had been grouped together, and as to the third element, the court erroneous determination of the consecutive terms of imprisonment, affected Petitioner's due process rights because because of it's failure to properly determined and inquiring the United States Sentencing Guidelines, Section 3D1.2 for the "grouping" procedure and concurrent terms of imprisonment, in violation under the Fifth Amendment of the United States Constitution. *United States v. Pacheco*, Criminal No. 3:13-CR-157-P(01) (D.C.N. Tex. 2013).

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays this court would grant the writ. Find that counsel rendered ineffective assistance by failing to file his notice of appeal upon request, failed to object to the consecutive terms of imprisonment and grove the grouping sentencing guidelines procedure, and would find the court's erroneous terms of consecutive of imprisonments.

December 26, 2016

RESPECTFULLY SUBMITTED,  
J. Melendez

CARLOS ZUNIGA #34086-177  
P.O. Box 898801  
OKLAHOMA CITY, OK 73189-8801

RECEIVED  
JAN 3 2017  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_  
DEPUTY

December 27, 2016

UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
501 W. 5TH STREET  
AUSTIN, TEXAS 78701

Re: 28 U.S.C. § 2255

Dear Clerk,

Per my cellmate's request and his immediate transfer to FCI-HAZELTON,  
P.O. Box 5000, Bruceston Mills, WV 26525, please find enclosed his  
pro se 28 U.S.C. § 2255.

Respectfully Submitted,





## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Jose Trinidad Mederos-Vgarte

(b) County of Residence of First Listed Plaintiff

Out of State

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

## DEFENDANTS

USA

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (Known)

A17 CV002 LY

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER/STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input checked="" type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28.2255  
Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Yeaker

DOCKET NUMBER 1:15-cr-182-LY

DATE

SIGNATURE OF ATTORNEY OF RECORD

## FOR OFFICE USE ONLY

RECEIPT # AMOUNT

APPLYING IFP

JUDGE Yeaker

MAG. JUDGE Austin

NAME: \_\_\_\_\_  
REG# \_\_\_\_\_  
FEDERAL TRANSFER CENTER  
P.O. BOX 898801  
OKLAHOMA CITY, OK 73189-8801



SCREENED BY CSO  
JAN 03 2017

NAME: \_\_\_\_\_  
REG# \_\_\_\_\_  
FEDERAL TRANSFER CENTER  
P.O. BOX 898801  
OKLAHOMA CITY, OK 73189-8801

NAME: CARLOS ZUNIGA  
REG# 34086-177  
FEDERAL TRANSFER CENTER  
P.O. BOX 898801  
OKLAHOMA CITY, OK 73189-8801

Oklahoma City PADC 73125  
THU 29 DEC 2016 PM

LEGAL MAIL  
12-27-2016

UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
501 WEST 5<sup>TH</sup> STREET  
AUSTIN, TEXAS 78701